IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO: 290 OF 2006 (S/S)

Salimmurrehman, S/o Late Sri Khalilurrehmam,
R/o House No-92, Mohalla Sot, Roorkee, Pargana
& Tehsil & P.O. Roorkee, District Haridwar.

……..Petitioner

Versus

1. Uttaranchal Power Corporation Ltd. Through its Chairman/Managing Director, Uttaranchal Power Corporation Ltd., Urja Bhavan, Kanwli Road, Dehradun, District Dehradun.
2. Deputy Chief Accounts Officer (Distribution), Anchalik Lekha Karyalaya Vitran, Uttaranchal Power Corporation Ltd, 120, Haridwar Road, District Dehradun.
3. U.P. Power Corporation Ltd. through its Chairman.
4. Deputy Chief Accounts Officer, Abilik Accounts Office (Distribution) U.P. Power Corporation Ltd. Saharanpur.

……..Respondents

Sri Rajendra Singh, Advo, learned counsel for petitioner.
Sri B.D. Upadhayaya, Advo, learned counsel for respondent no. 1 and 2.

Dated : March 6, 2006.
HON'BLE RAJESH TANDON , J.

Heard Sri Rajendra Singh, counsel for petitioner and Sri B.D. Upadhayaya, counsel for respondent no.1 and 2. Both the parties have submitted that the writ petition may be disposed of at the admission stage.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 23.04.2003 passed by respondent no. 2.

Briefly stated, the petitioner is a resident of Roorkee, District Haridwar and retired from service on 30-11-2001 from the post of office assistant II Vidyut Nagree Vitran Mandal Saharanpur and was relieved after his retirement by the U.P. Power Corporation Ltd. After his retirement the pension of the petitioner is being issued from Saharanpur. The petitioner has made various attempts for transferring his pension from Saharanpur to Roorkee but the respondent no. 2 has refused his option for issuing his pension to Roorkee Vidyut Vitran Khand. The petitioner has submitted that he has made a representation on 8-12-2002 to Deputy Chief Accounts Officer, U.P. Power Corporation Ltd. Saharanpur alongwith all the relevant documents for transferring his pension to Vidyut Vitran Khand, Roorkee and on his representation Deputy Chief Accounts Officer Saharanpur has forwarded his representation alongwith all the original pension file of the petitioner to respondent no.2 for taking further action for transferring his pension papers vide letter no. 1476 dated 14-2-2003. The said representation is being quoted below:

"विषयः श्री सलीमर्रहमान का0सहा0द्वि से0नि0 की पेंशन के सम्बन्ध में ।

उपमुख्य लेखाधिकारी,
अविलिक लेखा कार्यालय वितरण
उत्तरांचल पावर कारपोरेशन लि0
120 हरिद्वार रोड
देहरादून।

कृप्या उपरोक्त विपयक श्री सलीमर्रहमान का0सहा0द्वि से0नि0 विधुत नगरीय वितरण मण्डल सहारनपुर जो कि दिनाक 30.11.2001 को निगम की सेवा से सेवानिवृत्त हो चुके है तथा वर्तमान में विधुत वितरण खण्ड प्रथम सहारनपुर से पेंशन प्राप्त कर रहे है का विधुत वितरण खण्ड रूडकी से पेंशन प्राप्त करने हेतु प्रार्थना पत्र मूल रूप में पेंशन भुगतान व पेंशन पत्रावली मूल रूप में पृष्ठ संख्या 01 से 61 तक इस अनुरोध के साथ प्रेपित है कि आप इस प्रकरण में अपने स्तर से अग्रिम कार्यवाही करने का कप्ट करे तथा इस कार्यालय को भी अवगत कराये ।"

However, by order dated 23-4-2003 the representation of the petitioner has been rejected. The petitioner thereafter has made a further representation on 30-7-2005 bringing to the notice of the authority concerned for passing transfer order of the pension papers and also the recommendation made in this regard by the authority concerned. The said representation is still pending and has not been disposed of.

Sri B.D. Upadhyay, counsel for respondent no. 1 and 2 has submitted that the U.P. Power Corporation from where the petitioner has retired, if sends the

pension papers to Roorkee, the same shall be considered. A perusal of the letter dated 14-2-2003 it appears that the pension papers has been sent to respondent no.2. The respondents, therefore, are directed to pass appropriate orders in pursuance of the letter dated 12-2-2003 and 23-4-2003. Any query if it has to be made from U.P. Power Corporation the same may be done within a period of one month and retired person should not be allowed to suffer on account of the facts that the papers are lying at Saharanpur and whereas he is residing at Roorkee.

However, it is made clear that a senior citizen should not be harassed from drawing the pension if otherwise permissible under the rules of both the corporations for transferring the same.

However, drawing of the pension being part of Article 21 of the Constitution of India, the petitioner should not be deprived of his pensionery benefits on account of any technicalities.

The writ petition is allowed. The order dated 23-4-2003 is quashed. However, the respondents are

directed by a writ of mandamus to consider the representation afresh regarding the transfer of the pension papers and pass the order within a period of two weeks from the filling of the certified copy of the order. While transferring the pension papers the respondents shall also take into consideration the annexure 5 dated 30-8-2003.

Consequently writ petition is allowed. No order as to costs.

(Rajesh Tandon, J.)

Negi
06-03-2006